

STATEMENT OF PROCEEDINGS
FOR THE REGULAR MEETING
OF THE LOS ANGELES COUNTY CLAIMS BOARD
HELD IN ROOM 648 OF THE KENNETH HAHN HALL OF ADMINISTRATION,
500 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

ON

MONDAY, OCTOBER 6, 2008, AT 8:00 AM

Present: Maria M. Oms, Rocky Armfield and John Krattli

The following items were presented to the Claims Board for consideration and the Claims Board took actions as indicated in bold.

1. Call to Order.
2. Opportunity for members of the public to address the Claims Board on items of interest within the subject matter jurisdiction of the Claims Board.

No members of the public addressed the Claims Board.

3. Closed Session – Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Government Code Section 54956.9).
 - a. TracFone Wireless, Inc. v. County of Los Angeles
Los Angeles Superior Court Case No. BC 357 628

This lawsuit seeks a refund of utility user taxes related to telephone cards sold by TracFone.

Action Taken:

This Claims Board approved settlement of this matter in the amount of \$75,000.

Absent: None

Vote: Unanimously carried

[See Supporting Documents](#)

- b. Michael Kraut v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC 364 168

This lawsuit concerns allegations that an employee of the District Attorney's Office was subjected to discrimination, harassment, and retaliation.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$325,000 and that the Auditor-Controller be instructed to draw a warrant to implement this settlement from the District Attorney's budget.

Absent: None

Vote: Unanimously carried

- c. Cherylle Cuozzo, et al. v. County of Los Angeles
Los Angeles Superior Court Case No. PC 032 929

This medical negligence lawsuit arises from treatment received by a patient while hospitalized at Olive View Medical Center.

Action Taken:

The Claims Board continued this matter.

Absent: None

Vote: Unanimously carried

[See Supporting Documents](#)

- d. Narek D., et al. v. County of Los Angeles
Los Angeles Superior Court Case No. BC 372 486

This lawsuit concerns injuries allegedly suffered as a result of plaintiff being placed on a 72-hour involuntary hold in a psychiatric hospital.

Action Taken:

This Claims Board approved settlement of this matter in the amount of \$50,000.

Absent: None

Vote: Unanimously carried

[See Supporting Documents](#)

4. Report of actions taken in Closed Session.

The Claims Board reconvened in open session and reported the actions taken in closed session as indicated under Agenda Item No. 3 above.

5. Approval of the Minutes for the August 18, 2008, meeting of the Claims Board and the August 29, 2008 and September 22, 2008, Special meetings of the Claims Board.

Action Taken:

The Minutes for the August 18, 2008, meeting of the Claims Board and the August 29, 2008 and September 22, 2008, Special meetings of the Claims Board were approved were approved.

Absent: None

Vote: Unanimously carried

[See Supporting Documents](#)

6. Items not on the posted agenda, to be referred to staff or placed on the agenda for action at a further meeting of the Board, or matters requiring immediate action because of emergency situation or where the need to take immediate action came to the attention of the Board subsequent to the posting of the agenda.

No such matters were discussed.

7. Adjournment.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	<u>TracFone Wireless, Inc. v. County of Los Angeles</u>
CASE NUMBER	BC 357628
COURT	Los Angeles Superior Court, Central District
DATE FILED	August 25, 2006
COUNTY DEPARTMENT	Chief Executive Office
PROPOSED SETTLEMENT AMOUNT	\$75,000.
ATTORNEY FOR PLAINTIFF	Robert R. Gunning Siverstein & Pomerantz (303) 991-3659
COUNTY COUNSEL ATTORNEY	Albert Ramseyer Principal Deputy County Counsel (213) 974-0809
NATURE OF CASE	This case concerns a tax refund claim. Plaintiff argues that it involuntarily and erroneously paid Utility User Tax to the County of \$120,000 on telephone cards that it sells in the unincorporated area of the County. The County argues that TracFone paid the tax voluntarily, and therefore, should not be entitled to a refund as a matter of law.

This case has been vigorously litigated through a published Court of Appeal decision. Due to the uncertainties and costs associated with further litigation, the Chief Executive Office proposes a full and final settlement of the dispute upon the County's tendering a refund in the amount of \$75,000.

PAID ATTORNEY FEES, TO DATE	\$31,615
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PAID COSTS, TO DATE	\$246
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Summary Corrective Action Plan



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	2005
Briefly provide a description of the incident/event:	TracFone Wireless, Inc. ("TracFone") paid utility user taxes ("UUT") of \$120,151 for the months of January 2005 through January 2006. TracFone subsequently filed a claim on January 31, 2006, asserting that it was entitled to a refund of utility user taxes contending that its payment of the UUT was in error, and that the telephone services that it sells were not subject to the tax. TracFone further contends that the U.S. Department of the Treasury has abandoned the Federal Excise Tax ("FET") on long distance telephone service in May 2006, and that TracFone is not subject to the UUT pursuant to 4.62.060 D of the County Code. TracFone filed suit for refund of taxes in Los Angeles Superior Court on August 26, 2006, LASC BC 357628.

1. Briefly describe the root cause of the claim/lawsuit:

The federal courts and the US Treasury have clarified over the last few years that telephone service not subject to a toll charge that varies in amount with the distance and elapsed transmission time of each individual communication is not subject to the FET. Telephone services, such as those sold by TracFone, not subject to the FET, are not subject to the UUT. (County Code 4.62.060 D.)

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

Amend the County Code to eliminate the reference to the FET. An amended UUT is on the ballot for November 2008, Measure U.

3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- Potentially has County-wide implications.
- Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator)	Date:
Signature: (Department Head)	Date:

(Handwritten signature and date 9/30/08 are present in the Department Head row)

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Cherylle Cuozzo, et al v. County of Los Angeles
CASE NUMBER	PC 032929
COURT	Los Angeles Superior Court North Valley District
DATE FILED	June 27, 2003
COUNTY DEPARTMENT	Department of Health Services
PROPOSED SETTLEMENT AMOUNT	\$335,000.00
ATTORNEY FOR PLAINTIFF	Steven G. Cohn, Esq.
COUNTY COUNSEL ATTORNEY	Narbeh Bagdasarian
NATURE OF CASE	<p>This is a medical malpractice case brought by Cherylle Cuozzo, Jennifer Cuozzo and Amanda Cuozzo, the surviving family of Ernest Cuozzo, who died on April 2, 2002, at Olive View Medical Center ("OVMC").</p> <p>On March 31, 2002, Ernest Cuozzo, a 51-year-old male, presented to the Emergency Department at OVMC. The staff evaluated the patient and discovered that he was suffering from an increased number of red blood cells.</p>

Appropriate therapeutic measures were undertaken to lower the patient's red blood cell count.

On the following day, the patient's condition deteriorated as he suffered an arrest. Although the patient was resuscitated, his condition worsened, and he died on April 2, 2002. An autopsy was performed, which identified the cause of death as lung infection with increased red blood cells as a major contributing factor.

Mr. Cuozzo's surviving family brought a lawsuit against the County of Los Angeles, contending that the OVMC failed to provide the patient with the necessary treatments.

Although the County asserts that proper care was provided to Mr. Cuozzo, considering the risks involved in a jury trial, however, the Department of Health Services agreed to propose a settlement of this case in the amount of \$335,000.00.

PAID ATTORNEY FEES, TO DATE	\$75,639
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PAID COSTS, TO DATE	\$23,194
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Summary Corrective Action Plan

Date of incident/event:	April 2, 2002
Briefly provide a description of the incident/event:	Ernest Cuozzo presented to the Emergency Department at Olive View/UCLA Medial Center on March 31, 2002, with chest congestion, a productive cough, diarrhea and weakness. Laboratory studies were consistent with an overproduction of red blood cells that did not improve with the administration of fluids, however he died of infection.

1. Briefly describe the root cause of the claim/lawsuit:

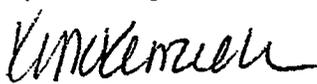
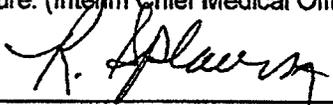
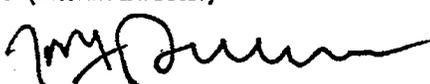
- Failure to timely diagnose and treat infectious condition/sepsis.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

- Several policies were reviewed and some were revised.
- 2005: DHS-wide Surviving Sepsis Campaign developed to improve management, diagnosis and treatment of septic patients
- 7/06 through 11/07: System-wide education provided for Surviving Sepsis Campaign including this facility.

3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- Potentially has County-wide implications.
- Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator) 	Date: 8/11/08
Signature: (Interim Chief Medical Officer) 	Date: 8/11/08
Signature: (Interim Director) 	Date: 8-11-08

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	<u>Narek D., et al. v. Los Angeles Unified School District, et al.</u>
CASE NUMBER	BC372486
COURT	LASC Central, Department "16"
DATE FILED	June 11, 2007
COUNTY DEPARTMENT	Department of Mental Health
PROPOSED SETTLEMENT AMOUNT	\$50,000.00
ATTORNEY FOR PLAINTIFF	Geragos and Geragos, PC
COUNTY COUNSEL ATTORNEY	Stephanie Jo Farrell Principal Deputy County Counsel (213) 974-0941 Andrea E. Ross Deputy County Counsel (213) 787-2310
NATURE OF CASE	Plaintiffs Narek D., a minor, and Elen D., the minor's mother, sued the County of Los Angeles and Dawn Urasaki, a County of Los Angeles psychiatric social worker, among others, for injuries plaintiffs suffered as a result of plaintiff Narek D. being placed on a 72-hour involuntary hold in a psychiatric hospital.

Specifically, plaintiffs' complaint alleges causes of action for intentional infliction of emotional distress, negligent infliction of emotional distress and negligence. A conditional settlement was reached between the plaintiffs and the County defendants in the amount of \$50,000.00.

The case was vigorously litigated, which included significant discovery, motions for summary adjudication of issues, mediation and a mandatory settlement conference. Due to the risk and uncertainties of litigation, the Department of Mental Health propose a full and final settlement of the County's portion of the case in the amount of \$50,000.00.

PAID ATTORNEY FEES, TO DATE	\$48,565.38
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PAID COSTS, TO DATE	\$1,255.44
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Summary Corrective Action Plan



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	10-05-06
Briefly provide a description of the incident/event:	<p>Narek D., age 6, was evaluated and placed on an involuntary hold by DMH ("Systemwide Mental Assessment Response") Team (S.M.A.R.T.) pursuant to <u>Welfare & Institutions Code, Section 5585, et seq.</u> for transport to a designated hospital for evaluation of being a danger to self.</p> <p>DMH S.M.A.R.T. arrived and evaluated Narek who stated that he had had thoughts of killing himself and explained how he would go about doing it (stab himself in his stomach with his school scissors). He also stated that he tried to kill himself before by banging his head against his wood headboard at home. Narek's mother was present during the assessment.</p> <p>After the assessment, it was decided an application for a 72-hour hold should be made. Upon this decision being made, plaintiff's mother became upset and attempted to have her son released to her instead. This appeal was denied and plaintiff was then transported by LAUSD police to Kedren Psychiatric Hospital. Plaintiff's mother followed. Plaintiff was admitted and held for 72-hours.</p>

1. Briefly describe the root cause of the claim/lawsuit:

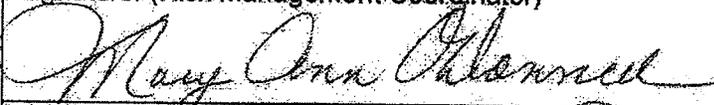
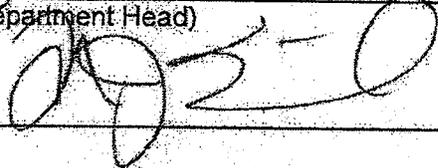
The root cause of the lawsuit was DMH's interpretation of "the authorization for voluntary treatment is not available" clause in CA Welfare and Institutions Code Section 5585.5. Specifically, there is not a policy in place regarding how DMH instructs its designated staff in the situation of assessing a minor in the presence of a parent and completing the associated documentation.

2. Briefly describe recommended corrective actions: (Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

1. DMH will seek guidance State guidance on the interpretation of the statute by November 15, 2008. Responsible parties: Roderick Shaner, M.D., Medical Director; Ellen Satkin, L.C.S.W., Director, Patients Rights Bureau
2. Based upon the outcome of the previous action, DMH will revise the form (Application for Involuntary Treatment) by January 30, 2009. Responsible Parties Responsible parties: Roderick Shaner, M.D., Medical Director; Ellen Satkin, L.C.S.W., Director, Patients Rights Bureau
3. DMH will determine the procedures and documentation necessary to ensure full compliance with WIC 5558.5 and develop specific training for all DMH staff to ensure that associated practices are implemented by April 1, 2008. Responsible parties: Roderick Shaner, M.D., Medical Director; Tony Beliz, Ph.D., Deputy Director, Emergency Outreach Bureau (EOB); Linda Boyd, R.N., M.N., Program Head, EOB Law Enforcement - Mental Health Teams

4. State if the corrective actions are applicable to only your department or other County departments:

- Potentially has County-wide implications
- Potentially has implications for other departments (i.e., all human services, all safety departments, or one or more other departments).
- Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator) 	Date: 10-1-08
Signature: (Department Head) 	Date: 10-1-08

COUNTY OF LOS ANGELES CLAIMS BOARD

MINUTES OF REGULAR MEETING

August 18, 2008

This regular meeting of the County of Los Angeles Claims Board was called to order at 8:07 a.m. The meeting was held in Conference B, 648 Kenneth Hahn Hall of Administration, Los Angeles, California.

Present at the meeting were Claims Board Members: Maria M. Oms, Rocky Armfield and John F. Krattli; Office of the County Counsel: Talin Halabi, Warren Wellen, Richard Kudo, Donna Koch, Manuel Valenzuela, Ed Lewis, and Mary Wickham; Department of Parks and Recreation: Larry Hensley and Andrew Lopez; Department of Public Works: Michael Montgomery, Lance Grindle, and Allan Abramson; Office of Affirmative Action Compliance: Hayward Harris, Jr.; Probation Department: Tracy Jordan-Johnson; Treasurer-Tax Collector's Office: Mark J. Saladino and Anthony Yakimowich; Internal Services Department: Mark A. Colton; Outside Counsel: David Weiss and Peter Bollenger.

No members of the public addressed the Claims Board.

At 8:08 a.m., the Chairperson adjourned the meeting into closed session. At 11:00 a.m., the public meeting was reconvened.

The Claims Board took the following actions:

a. Claim of GeoCon Engineering, Inc.

This claim for additional compensation arises from the construction of the Belvedere Park Skatepark.

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$126,401 and that the Auditor-Controller be instructed to draw a warrant to implement this settlement from the Department of Parks and Recreation's budget.

The vote of the Claims Board was unanimous with all members being present.

- b. Rapp v. City National Bank, N.A., et al.
Los Angeles Superior Court Case No. SC 087 535

This lawsuit concerns landslide damage to three residential properties in the unincorporated Topanga area of the County.

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$425,000 and that the Auditor-Controller be instructed to draw a warrant to implement this settlement from the Department of Public Works' budget.

The vote of the Claims Board was unanimous with all members being present.

- c. Claim of Debbie Gibbs/Salon VIP

This claim seeks compensation for property damage and loss of business caused by a sewer back-up.

The Claims Board approved settlement of this matter in the amount of \$75,883.08.

The vote of the Claims Board was unanimous with all members being present.

- d. Sara Abeshyan v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC 374 935

This lawsuit concerns allegations that an employee of Acclimation Insurance Management was subjected to sexual assault, battery, and harassment by an employee of the Chief Executive Office.

The Claims Board approved settlement of this matter in the amount of \$40,000.

The vote of the Claims Board was unanimous with all members being present.

- e. Michael Webb v. County of Los Angeles
Los Angeles Superior Court Case No. BC 36 363 229

This lawsuit concerns allegations that an employee of the Probation Department was subjected to racial discrimination and retaliation.

The Claims Board continued this item.

The vote of the Claims Board was unanimous with all members being present.

- f. Iyob Tessema v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC 356 755

This lawsuit concerns allegations that an employee of the Treasurer-Tax Collector's Office was subjected to racial and national origin discrimination and retaliation.

The Claims Board approved settlement of this matter in the amount of \$50,000.

The vote of the Claims Board was unanimous with all members being present.

Minutes for the August 4, 2008, meeting of the Claims Board and the August 12, 2008, Special meeting of the Claims Board were approved.

There being no further business, the meeting was adjourned at 11:08 a.m.

COUNTY OF LOS ANGELES CLAIMS BOARD

By Michelle Ramelot
Michelle Ramelot

COUNTY OF LOS ANGELES CLAIMS BOARD

MINUTES OF THE SPECIAL MEETING

September 22, 2008

This regular meeting of the County of Los Angeles Claims Board was called to order at 8:05 a.m. The meeting was held in the Executive Conference Room, 648 Kenneth Hahn Hall of Administration, Los Angeles, California.

Present at the meeting were Claims Board Members: Maria M. Oms, Rocky Armfield and John F. Krattli; Office of the County Counsel: Julie D. Silva, Manuel A. Valenzuela, Narbeh Bagdasarian, and Edwin A. Lewis; District Attorney's Office: John K. Spillane; Department of Health Services: William Loos, M.D.; Sheriff's Department: Rob Taliento; Office of Affirmative Action: Hayward Harris, Jr.; Board of Supervisors Office: Martha Jimenez and Vicky Santana; Outside Counsel: Linda Miller Savitt of Ballard, Rosenberg, Golpher and Savitt, LLP.

No members of the public addressed the Claims Board.

At 8:12 a.m., the Chairperson adjourned the meeting into closed session. At 11:10 a.m., the public meeting was reconvened.

The Claims Board discussed procedures regarding Corrective Action Plans.

The Claims Board took the following actions:

- a. Cherylle Cuozzo, et al. v. County of Los Angeles
Los Angeles Superior Court Case No. PC 032 929

This medical negligence lawsuit arises from treatment received by a patient while hospitalized at Olive View Medical Center.

This matter was continued to the next Claims Board meeting.

The vote of the Claims Board was unanimous with all members being present.

- b. Belinda Mendez
Claim No. 07-2693

This claim concerns allegations of sexual assault by a Sheriff's Department employee of a female inmate incarcerated at the Century Regional Detention Facility.

The Claims Board approved settlement of this matter in the amount of \$40,000.

The vote of the Claims Board was unanimous with all members being present.

- c. Michael Kraut v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC 364 168

This lawsuit concerns allegations that an employee of the District Attorney's Office was subjected to discrimination, harassment, and retaliation.

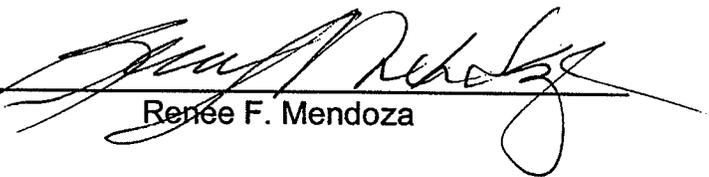
This matter was continued to the next Claims Board meeting.

The vote of the Claims Board was unanimous with all members being present.

There being no further business, the meeting was adjourned at 11:37 a.m.

COUNTY OF LOS ANGELES CLAIMS BOARD

By


Renee F. Mendoza